

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Charles Johnson, §
§
Plaintiff, §
§
v. § CIVIL ACTION NO. 4:20-cv-00179
§
TheHuffingtonPost.com, Inc., §
§
Defendant. §
§
§

**NOTICE OF SUPPLEMENTAL AUTHORITY IN SUPPORT OF DEFENDANT
THEHUFFINGTONPOST.COM, INC.’S MOTION TO DISMISS FOR LACK OF
PERSONAL JURISDICTION**

Defendant The HuffingtonPost.com, Inc., Inc. (“HuffPost”) respectfully submits this notice of supplemental authority in support of its pending motion to dismiss Plaintiff Charles Johnson’s First Amended Complaint for lack of personal jurisdiction (Doc. # 32).

On July 16, 2020, Magistrate Judge Kimberly Priest Johnson entered an order recommending the dismissal of defamation claims against Vox Media, Inc. (“Vox”) and several other media defendants in *Edward Butowsky v. Michael Gottlieb et al*, Case No. 4:19-CV-00180-ALM-KPJ in the United States District Court for the Eastern District of Texas.¹ Judge Johnson held that the plaintiff had failed to allege a sufficient basis for a Texas court to exercise personal jurisdiction over Vox Media, an out-of-state online publisher. Ex. A at 1. Because the jurisdictional facts in *Butowsky* are similar to this case, Judge Johnson’s order is persuasive authority in support of HuffPost’s pending motion.

¹ A copy of the report and recommendation is attached as Exhibit A.

The plaintiff's claims in *Butowsky* were based on the publication of two articles on Vox Media's public website, www.vox.com. *Id.* at 20; *compare* Doc. # 32 at 7 (HuffPost article posted on public website). Butowsky alleged that the articles caused him reputational injury in Texas, where he lives. Like the HuffPost article, the Vox articles did not mention Texas and were not based on any sources from Texas. Ex. A at 20-21; *compare* Doc. # 32 at 6-7 (HuffPost article did not mention Texas and was not based on Texas sources). Rather, they reported on events outside Texas, including in Washington, D.C. Ex. A at 20; *compare* Doc. # 32 at 6 (HuffPost article reported on meeting in Washington, D.C.). Although Texas residents could access the Vox articles, only about 6% of the page views for the articles were by Texas readers. Ex. A at 24-25; *compare* Doc. # 32 at 7 (8% of page views of HuffPost article were from Texas).

Judge Johnson held that these facts could not support the exercise of personal jurisdiction by a Texas court. Like HuffPost, Vox is not "at home" in Texas. Accordingly, the court held that it could not exercise general jurisdiction over Vox Media. *Id.* at 7. Judge Johnson then surveyed relevant Fifth Circuit and Supreme Court precedent on the test for determining specific jurisdiction in libel cases, and held that the Fifth Circuit's "subject and sources" standard "is the proper test for determining personal jurisdiction in defamation cases. . . ." *Id.* at 15. Applying that standard, Judge Johnson held that the court did not have specific jurisdiction over Vox Media. *Id.* at 20-21.

For these reasons and those discussed in HuffPost's motion (Doc. # 32) and reply (Doc. # 38), HuffPost respectfully requests that the Court dismiss Plaintiff's First Amended Complaint for lack of personal jurisdiction without further leave to amend.

DATED: July 21, 2020

Respectfully submitted,

/s/ Jean-Paul Jassy

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CERTIFICATE OF SERVICE

I hereby certify that on July 21, 2020, copy of the above and foregoing has been filed electronically with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

/s/ Marc A. Fuller
Marc Fuller